

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION**

HOUSE BUSINESS AND LABOR COMMITTEE

Date: Monday, February 9, 2009

Time: 9:00 am

Place: Capitol

Room: 172

BILLS and RESOLUTIONS HEARD:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Add Postponed (PP) when appropriate:

HB 386, HB 396

EXECUTIVE ACTION TAKEN:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Enter P(pass) F(failed) DPAA (do pass as amended) BC(be concurred in) BCAA (be concurred in as amended):

COMMENTS:



REP. Bill Wilson, Chairman

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE: 2/9/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
Rep. Michele Reinhart	/	
Rep. Bill Beck		/
Rep. Elsie Arntzen	/	
Rep. Shannon Augare	/	
Rep. Paul Beck	/	
Rep. Tom Berry	/	
Rep. Carlie Boland	/	
Rep. John Fleming	/	
Rep. Timothy Furey	/	
Rep. Chuck Hunter	/	
Rep. Harry Klock	/	
Rep. Mike Milburn	/	
Rep. Pat Noonan	/	
Rep. Scott Reichner	/	
Rep. Cary Smith	/	
Rep. Gordon Vance	/	
Rep. Jeffery Welborn	/	
Rep. Bill Wilson	/	

**Montana House of Representatives
Visitors Register**

BUSINESS AND LABOR COMMITTEE

Date _____

Bill No. HB 396 Sponsor(s) Rep Wilson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Tim Robbins	Rural Dynamics	X		
Todd Coultis	Advance Finance		X	
Kicki Medlar	Montana Women's Foundation	X		
Andrea J. Olsen	MTLA	X		
Linda Gryczan	Business + Prof. C	X		
Shawn Whitlock	Montana Antiques & Collectibles Assoc.	X		
Don O'Neil	Bu Ha Mont	X		
Kay O'Neil	CICISante MT	X		
Jamie Greer	Human Rights Network	X		
Joey Steel	MSU Extension	X		
RACHEL ROBERTS	MT Family Foundation	X		
Caitlin B. Lopez	MT Title Loans		X	
Athena Mercer	MT Title Loans		X	
Chris Olson	Dept. of Administration			X
Rochelle Schultz	Moneylenders		X	
Sandy Poles, Higgins	Money Lenders		X	
MARK TAYLOR	SELECT MAN. RES.		X	
Nancy Fortner	Money Lenders		X	
Chris Romano	Dept. of Administration			X

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

BUSINESS AND LABOR COMMITTEE

Date 2/9/09

Bill No. HB 396 Sponsor(s) Rep Wilson

PLEASE PRINT

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Name and Address	Representing	Support	Oppose	Inf.
Piley Johnson	CFSA		X	
Don Judge	WEE L	X		
Judy Smith	MWV	X		
Sarah Thompson	MFSCA	X	X	
Judy Wall	Cash Advantage		X	
Kelly Tracy	Cash Advantage		X	
Clara Clifford	AARP MT	✓		
Andy Heiman	AARP MT	X		
Mary Kay Craig	6 Butte/Bozeman	X		
Jandra Jankowski	AARP	X		
JD Lynch	MT Financial Services Group		X	
Cheryl Thomas	AARP	✓		
Bob Roberts	AARP	X		
Tracy Smith	OCP	X		
6 Butte	AG's office	✓		
Moel Wasopka	Montana Catholic Conference	✓		
Tom Jacobson	CCCS of MT	X		
Stacy McCoy	Butte, MT	X		
Karen Coker	SELF	X		
Salon Hollenbaugh	House District B1	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

BUSINESS AND LABOR COMMITTEE

Date 2/9/09

Bill No. HB 386

Sponsor(s) Rep O'Hara

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Michael Lynn Hawk	CIC			
Andrea T. Olsen	MTLA			X
Chuck Munson	MLSA			
Joyce Bird	Monrey Sanders		X	
Loen Bougl		X		
Kay O'Hara	CIC Bette HB 386	X		
Don G. Mott				
Steve Yerka	MFDA	X		
Skidmore Royal Anne Terri Stevens	MFDA	X		
Scott Gillison 3734 Baxter Ave. Great Falls, MT	Montana FDIH	X		
Steve Schneider 1510-13th St. SE	MFDA	X		
Robert Grimes 464 Zimmerman Ln. Hamilton, MT	MFDA	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Helena Montana - Shannel Pocha Age 28

I am a single parent raising a child through a difficult time and found that I was \$200.00 short on my rent, I am a very independent and proud individual and did not want to ask for any help, not that there was anyone at that time I could have turned to, they being in the same situation I was. As a last resort I chose to get a title loan against my car for the \$200.00 as it seemed like an easy fix. I made my payments faithfully and on time.

Several weeks later after a minor surgery I had had with some post op complications I was unable to work for several days and I missed one weekly payment. I did call the loan company and told them the situation, I was assured that I would be able to come in on the following Friday and pay off the loan. Again on Tuesday the following week I called the loan company and told them I would be in on Friday to PAY OFF my loan. Thursday morning I woke up to find that my car was gone. After calling the police and loan company I found out that it had been taken for failure to pay the loan.

I contacted the loan company and was told that I would need \$406.15 to get my car back. Over twice the amount I had taken the loan for. I was charged towing fees, Fees for keys (I provided copies at the time I got the loan) Storage fees. To make matters worse the people who towed my car caused significant damage to my vehicle and STOLE my car stereo. I am currently without an operational vehicle to this day. I struggle to get back and forth to work and do simple things like grocery shop all because I chose to finance a loan with a company that were no better than the gangsters you read about or see in the movies.

This is my experience with a Title Loan.

END STORY

Remarks on Payday Lending

We don't refrain from regulating or putting restrictions on some livelihoods because it might make them unprofitable. For instance, burglary can be profitable but we restrain it, regardless of potential profitability, because it has a negative impact on groups of unsuspecting, vulnerable people. Burglary may be essential to the perpetrating person's standard of living but that does not make it acceptable.

What is now referred to as "payday lending" used to be called "loan sharking." The two primary differences between the two are: **loan sharking** resorts to violent collection techniques and **payday lending** has legal protection for its practices, to varying degrees, in many states.

"Disparate impact," under Title VII of the 1964 Civil Rights Act, as amended, applies to protected groups of people. "Disparate impact" is an adverse impact on a group. A religious group is a protected group, as are females and disabled individuals, and other groups. Middle and lower middle socio-economic groups, primarily made up of females, renters, racial minorities, the disabled, military and lower income people, are not protected in this grouping, although some of these segments *are* protected their individual group. The Title VII protected groups make of the majority of the lower-middle and lower classes or group.

These later groups, lower and lower-middle socio-economic groups *are* marginalized, as are the Title VII protected groups. Lower/middle class/female/disabled people do not select their group with any more determination than people of a religious group.

Lower socio-economic groups are perpetuated by matters such as education, mental ability, mental and physical disabilities, sex (female), birth circumstances and historic, disparaging regard by other groups. It should be noted that, under the law, disparate impact does not require proof of discriminatory *intent*.

If payday lenders can not make a living without charging usury rates, their business models are wrong. Legitimate banks operate successfully without charging such rates. Therefore, business models do exist for successful lending institutions. And, payday lenders often have more of a marketing mix to offer the customer, providing other opportunities to develop gross margin, and eventually, net profit.

Payday lenders lend to people who *think* they can not get a loan from a main stream lender such as a bank or credit union. This is not necessarily the case but it is believed, if not purported, and capitalized upon, by payday lenders.

In addition, "pyramiding" provides a circulating flow of customers who borrow from one payday lender, then another, and so on, to pay off the first, etc., trying to escape enormous payoffs from outlandish APR's, which the borrower did not anticipate.

If you had a young, adult daughter, who was trying to make her own way, and you were trying to encourage her without enabling her, and she said, "I think my only option is to get a *payday loan*, what would you tell her...and why?

WILLIAM A. SPOJA, JR.*Attorney at Law**Additional Documents*

THIRD AND BROADWAY

P.O. BOX 882

LEWISTOWN, MONTANA 59457

TELEPHONE (406) 538-8767

FAX (406) 538-5861

February 7, 2009

To: Members of Business & Labor Committee, Montana House

Re: HB 386 (Montana Right of Disposition Act)

It troubles me that most of the first half of HB 386 is composed of language which is essentially a morticians' relief bill in that it puts all the aces in the mortician's hands thus the surviving children or widow(er) have very few choices. If we want to make changes in the laws involved, we need to be careful about what we are doing. The law presented here is in significant part taken directly from the Funeral Director Association's legislation of two years ago.

I suspect that the committee will be very interested in Section 3 of the bill which makes the arrangements prior to death virtually irrevocable, even by a surviving spouse. Just think of this:

Grandma Jones had a fine IRA from which she was getting enough to take care of herself, then in 2007-8 the economy tanked. Now the IRA is gone to the dogs and she didn't have enough income, so she had to run up some bills. Since she and grandpa had always had a good credit rating, her creditors were unwilling to hurt her feelings by trying to collect on a monthly basis and she got behind.

1. At her death her kids were stuck with a fancy funeral that she did not think to change and which she ordered and paid for before the recession. The children had to pay off her debts or let the creditors go short. Still, under the new law, there was a family funeral they really could no longer afford. Not only this, the kids signed for the mortician and lo and behold, when the tears dried and the dust settled, he probably wanted more money, too.

OR

2. Mr. and Mrs. Smith made and paid for arrangements with a funeral director, but as time went on, they decided they wanted something different and discussed between themselves a less expensive option but didn't act on their decision. Sadly, also, neither had nominated the other to be able to change their plans post mortem and so the surviving spouse was stuck with the old plan that neither of them had wanted.

Who profited from this change in Montana law?

Ironically, in neither of the above cases would the mortician LEGALLY be able to make changes without the threat of liability to a disaffected survivor because of the new law! The deceased's order prevails over everything except a court of law.

Please look at this proposed law carefully before accepting it. It might be good to table it and ask someone you can trust to study it for you. I would be willing to help, but you need to be aware that I own the free standing crematorium in Lewistown that the Montana Funeral Directors tried to put out of business at the last session of the legislature. You need someone without bias or conflicts.

Sincerely,

William A. Spoja, Jr.

William A. Spoja, Jr.
President, Central MT. Crematorium, Inc.

WAS.s



Funeral
Consumers
ALLIANCE

Protecting a consumer's right to choose meaningful, dignified, and affordable funerals since 1963

February 4, 2009

To: Montana House of Representatives Business and Labor Committee

re: HB 386, Right of Disposition (funerals)

(Sent by email and fax to Business and Labor Committee Secretary Santella Baglivo)

REQUEST FOR AMENDMENTS

Dear Representatives,

I write to you from Funeral Consumers Alliance, a national, nonprofit federation of 100 consumer organizations dedicated to protecting the rights of the bereaved and their families to choose meaningful and affordable funerals. HB 386 is a good opportunity to clarify the rights of Montanans to arrange funerals and cremations for themselves and their families, but some changes would make it more powerful and bring it in line with contemporary laws in the rest of the country.

HB 386 does not sufficiently protect families or funeral directors from unpleasant legal fights over who has the right to control the disposition of the body. By relying on the increasingly outdated next-of-kin devolution, the bill leaves potentially warring siblings to fight with each other, and drags funeral directors into an unwinnable situation. It leaves the courts to decide if the person with the right of disposition was estranged, and thus disqualified from carrying out the disposition. Courts should be a last resort, and there is a better way to structure this bill to stop feuds before they end up in court. Unfortunately, the bill gives Montanans the right to arrange their own disposition, or express their preferences, **only by prepaying a funeral home**. While this will undoubtedly delight the funeral industry and its trade associations, it's unfair to Montanans to restrict their options to a transaction no consumer group, including AARP, recommends. Multi-million-dollar scandals and preneed finance company failures nationwide show the product is just too risky.

Thirty-nine other states have remedied this situation with **Personal Preference** and/or **Designated Agent** laws. A Personal Preference law allows the decedent to express his wishes in writing, and provides that they must be followed as long as they're practical, and survivors can afford them. Such laws **do not** require the decedent to enter into a prepaid funeral. Designated Agent laws are even better: they allow the decedent to name a representative — anyone he or she wishes — to have the legal authority to carry out the disposition.

Why is this better? Because everyone's circumstances are different. An elderly widow may have several children who don't agree with each other, and are likely to war at the funeral home. With a designated agent law, the widow may name anyone — her sister, her closest friend — to have the authority. Or, perhaps an elderly gentleman and lady have been companions in a nursing home, both are widowed, and their respective children are not on good terms with each other. Such people should have the right to assign each other the legal right to act as a Designated Agent. As sad as these situations are, they do happen. Leaving the decision up to a "surviving spouse," then on down the line of kin, simply does not account for contemporary family situations, no matter how much we might like to believe it's enough.

Designated Agent laws give citizens peace of mind, and give funeral directors immunity from liability. **Such laws do not prevent survivors from organizing a memorial service or remembrance on their own**, though some funeral directors



Funeral Consumers

ALLIANCE

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make this erroneous claim. Such laws do, however, give the decedent's Designated Agent the right to make the final decision about the disposition of the body. While other survivors would be welcome to organize a memorial service, for example, they would not have the right to override the Agent's decision about body burial, public display of the body, or cremation. HB 386 is troublingly vague on this point; it could be read to give a whole slew of other survivors the right to upset cremation or burial plans if they objected to the choice of the person authorized under law.

Fortunately, there's no need to reinvent the wheel. Personal Preference and Designated Agent laws are **the norm** across the country, and are not considered "controversial," but a solution that benefits funeral homes and individuals. Here's a list of states with such laws:

Personal Preference Laws (9 total):

Arizona
Arkansas
Florida
Kentucky
Louisiana
Minnesota
New Mexico
Washington
Wyoming

Designated Agent Laws: (30 total)

California, Colorado, Connecticut, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Michigan, Maryland, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin

There are many statutes Montana could simply copy and adapt with little effort. I recommend Texas' version for its clarity, completeness, and for the fact that it includes a model Designated Agent Form within the statute. I'll attach the relevant portion of the TX laws to this letter. If I can be of any assistance, please let me know. Funeral Consumers Alliance and its member groups have worked with legislatures and funeral directors' organizations to pass such laws before.

Respectfully yours,



Funeral Consumers

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ATTACHMENT

Texas Health and Safety Code, Sec. 711.002. DISPOSITION OF REMAINS; DUTY TO INTER.

(a) Unless a decedent has left directions in writing for the disposition of the decedent's remains as provided in Subsection (g), the following persons, in the priority listed, have the right to control the disposition, including cremation, of the decedent's remains, shall inter the remains, and are liable for the reasonable cost of interment:

(1) **the person designated in a written instrument signed by the decedent;**

- (2) the decedent's surviving spouse;
 - (3) any one of the decedent's surviving adult children;
 - (4) either one of the decedent's surviving parents;
 - (5) any one of the decedent's surviving adult siblings; or
 - (6) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.
- (b) The written instrument referred to in Subsection (a)(1) shall be in substantially the following form:

APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

I, _____,
(your name and address)

being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be

controlled by _____
(name of agent)

in accordance with Section 711.002 of the Health and Safety Code and, with respect to that subject only, I hereby appoint such person as my agent (attorney-in-fact).

All decisions made by my agent with respect to the disposition of my remains, including cremation, shall be binding.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:



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AGENT:

Name: _____
Address: _____
Telephone Number: _____
Acceptance of Appointment: _____
(signature of agent)
Date of Signature: _____

SUCCESSORS:

If my agent dies, becomes legally disabled, resigns, or refuses to act, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent (attorney-in-fact) to control the disposition of my remains as authorized by this document:

1. First Successor

Name: _____
Address: _____
Telephone Number: _____
Acceptance of Appointment: _____
(signature of first successor)
Date of Signature: _____

2. Second Successor

Name: _____
Address: _____
Telephone Number: _____
Acceptance of Appointment: _____
(signature of second successor)
Date of Signature: _____

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

RELIANCE:

I hereby agree that any cemetery organization, business operating a crematory or columbarium or both, funeral director or embalmer, or funeral establishment who receives a copy of this document may act under it. Any modification or revocation of this document is not effective as to any such party until that party receives actual notice of the modification or revocation. No such party shall be liable because of reliance on a copy of this document.



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ASSUMPTION:

THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY THE PROVISIONS OF, SECTION 711.002 OF THE HEALTH AND SAFETY CODE.

Signed this _____ day of _____, 19____.

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by

_____ (name of principal).

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires:

DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS



BRIAN SCHWEITZER
GOVERNOR

Additional Document

ANNIE M. GOODWIN
COMMISSIONER

STATE OF MONTANA

301 SOUTH PARK
SUITE 316
PO BOX 200546
HELENA MT 59620

CSBS ACCREDITED 2004
(406) 841-2920
(406) 841-2930 FAX
<http://banking.mt.gov>

February 5, 2009

Representative Mike Milburn, HD 19
Montana House of Representatives
Capitol Building
P.O. Box 200400
Helena, MT 59620

RE: Regulatory History of Montana Title Loan and Deferred Deposit Loan Acts

Dear Representative Milburn:

You have asked for information on Montana's deferred deposit and title loan acts. Our responses to your requests are provided by license type, and also in attached exhibits. We have made every attempt to compile the information quickly and accurately, but the details of rate caps nationwide are continually changing and we may not have complete, up-to-date information on all of the other states in the country.

Montana Deferred Deposit Loan Act (Title 31, Chapter 1, Part 7)

1. The Act was passed during the 1999 Legislative Session. The bill sponsor was Representative Jeff Mangan, and it was developed with input from the industry. We are not aware of any similar bill being introduced at previous sessions. The deferred deposit loan industry had a presence in Montana prior to passage of the Act. The Division had licensed some deferred deposit lenders under the Montana Consumer Loan Act, and it is likely that other lenders were operating without being licensed.

A variety of amendments have been passed since 1999 at the request of the Division, the industry, and perhaps by other parties as well. The amendments have worked to clarify the intent and applicability of the Act, increase consumer protections, and provide full financial support of the Division's regulatory program by the industry

The major points of amendments follow:

2001	<ul style="list-style-type: none">• Authorized payment of a deferred deposit loan using electronic deductions from a borrower's bank account, in addition to paper checks.• Clarified language in the original Act that had proven to be unclear.
2003	<ul style="list-style-type: none">• Addressed unclear language.• Increased the amount of borrower information required on the loan agreement.• Increased the allowable fee charged to borrowers for insufficient funds checks from \$15 to \$30.• Prohibited collection by the licensee of treble damages for insufficient funds checks from borrowers.

	<ul style="list-style-type: none"> • Authorized the Division to impose civil money penalties against licensees. • Clarified that monetary awards to borrowers may only be for intentional violations of the Act.
2005	<ul style="list-style-type: none"> • Imposed a rescission period for borrowers who wish to cancel their loan. • Addressed problematic language dealing with arbitration of disputes. • Authorized the Division to refuse to license or renew the license of applicants having fraud or financial dishonesty convictions. • Reduced the recordkeeping period for licensees from 4 years to 2 years, to be consistent with the Title Loan Act and the Consumer Loan Act.
2007	<ul style="list-style-type: none"> • Clarified the types of institutions on which a borrower's check may be drawn. • Clarified that licensees may be located outside of Montana and may conduct business by fax, internet, or through third parties. • Authorized the Division to conduct examinations as needed, rather than annually. • Increased license fees. • Generally revised investigation and enforcement provisions to be consistent with those of other Acts enforced by the Division and to comply with the Montana Administrative Procedures Act. • Clarified when a deferred deposit loan is considered to be paid, and limited borrowers to having one outstanding deferred deposit loan at a time, rather than potentially having two outstanding loans. • Clearly required inclusion of federal Truth in Lending disclosures on the loan agreement. • Increased licensee recordkeeping and reporting requirements. • Moved deposit of license fees and examination fees from the state general fund to the Division's state special revenue account.

Copies of the Division's current administrative rules are attached.

- The changes to the Act proposed in the bill carried by Senator Steinbeisser are:
 - Add material misstatements or omissions of fact as bases for denying a license.
 - Clearly state that a license applicant has the right to a hearing if the license application is not approved.
 - Provide that violations of federal consumer protection laws are violations of the Act as well.
 - Statutorily define the minimum information to be included in a license application.
 - Provide that the \$300 per examiner per day examination fee may be calculated on an hourly basis, rather than in full-day increments.
 - Clarify that a collection agency attempting to collect a bad check on behalf of a licensee may not also collect damages, just as a licensee is prohibited from doing.
- Complaints by deferred deposit loan borrowers often involve unlicensed internet lenders. These lenders do not respond to regulatory inquiries and frequently are offshore entities. The Division has not resolved any complaints involving unlicensed internet lenders. The following table details annual complaint volume:

FY 2009 To date	<p>Two complaints:</p> <ul style="list-style-type: none"> • One complaint was against an unlicensed internet lender. • One complaint involved collection procedures. The Division did not find any violations of applicable law.
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FY 2008	22 complaints: <ul style="list-style-type: none">• Twenty complaints were against unlicensed internet lenders.• One complaint involved collection procedures. The Division did not find any violations of applicable law.• One complaint involved terms of the loan and sought concessions from the lender. The Division did not find any violations of applicable law.
FY 2007	Six complaints: <ul style="list-style-type: none">• Three complaints were filed by borrowers who obtained payday loans from unlicensed internet payday lenders.• One complaint regarded borrower's concern that her loans had been flipped and that the lender was acting in violation of the Act by not accepting her payment plan. The loan files were reviewed and the licensee's procedures were determined to be in compliance with all applicable laws.• One complaint regarded collection of a deferred deposit loan. The lender resolved the complaint by agreeing to enter into a repayment plan with the borrower.• One complaint regarded fees. The complaint was reviewed and lender was determined to be in compliance with state law.
FY 2006	Ten complaints: <ul style="list-style-type: none">• One regarded a lender's collection procedures. The complaint was resolved after the lender agreed to cease contacting the borrower at certain locations, including her place of business.• One alleged that an unlicensed lender was making payday loans in Montana. The lender was licensed in accordance with the Act prior to the complaint having been filed.• Eight complaints were filed by borrowers who obtained payday loans from unlicensed internet payday lenders.

4. According to the information we have available, few states have implemented rate caps similar to those proposed at the last session or this session. Some states have lowered the allowable interest rate or APR, but also allow loan fees that serve to substantially increase the cost of credit. Some states have banned deferred deposit loan activity.

Among those few states that recently have greatly reduced the potential income on a deferred deposit loan, loopholes in other lending laws have allowed licensees to alter the structure or characterization of their products and continue their business with little real change. If a state closes all its loopholes, the industry contracts greatly.

A copy of a recent table detailing small loan costs nationally, prepared by three national consumer organizations, is attached. The second column of the table provides an explanation of the potential cost in each state for a two week, \$250 payday loan.

Montana Title Loan Act (Title 31, Chapter 1, Part 8)

1. The Act was passed during the 2001 Legislative Session. The bill sponsor was Representative Jeff Mangan, and it was developed with input from the industry. We are not aware of any similar bill being introduced at previous sessions. The title loan industry had a presence in Montana prior to passage of the Act. The Division had licensed some title lenders under the Montana Consumer Loan Act, and it is likely that other lenders were operating without being licensed.

A variety of amendments have been passed since 2001 at the request of the Division, the industry, and perhaps by other parties as well. The amendments have worked to clarify the intent and applicability of the Act, increase consumer protections, and provide full financial support of the Division's regulatory program by the industry

The major points of amendments follow:

2003	<ul style="list-style-type: none">• Clarified definition of a "title loan"• Clarified application of the Act.• Authorized the Division to impose civil money penalties against licensees.• Permitted collection of a service charge of up to \$30 by licensees who receive an insufficient funds check from a borrower.• Prohibited a licensee from holding a title for more than 30 days without perfecting its lien on the vehicle.• Clarified that monetary awards to borrowers may only be for intentional violations of the Act.• Moved deposit of license fees and examination fees from the state general fund to the Division's state special revenue account.
2005	<ul style="list-style-type: none">• Clarified application of the Act.• Authorized the Division to refuse to license or renew the license of applicants having fraud or financial dishonesty convictions.• Imposed a rescission period for borrowers who wish to cancel their loan.• Addressed problematic language dealing with arbitration of disputes.
2007	<ul style="list-style-type: none">• Removed licensing exemption for pawnbrokers. Added licensing exemption for person who makes fewer than four loans per year and complies with general interest rate laws.• Revised definition of a title loan and stated that it must have a term of 30 days.• Generally revised investigation and enforcement provisions to be consistent with those of other Acts enforced by the Division and to comply with the Montana Administrative Procedures Act.

Copies of the Division's current administrative rules are attached.

2. The changes to the Act proposed in the bill carried by Senator Steinbeisser are:
- Add material misstatements or omissions of fact as a basis for denying license.
 - Clearly state that a license applicant has the right to a hearing if the license application is not approved.
 - Provide that violations of federal consumer protection laws are violations of the Act as well.
 - Provide that the \$300 per examiner per day examination fee may be calculated on an hourly basis, rather than in full-day increments.

3. Complaints:

FY 2009 To date	None.
FY 2008	Four complaints: <ul style="list-style-type: none">• Two related to repossessions. The Division's investigation did not find any violations of applicable law.

	<ul style="list-style-type: none">• One related to an unauthorized loan. The complainant's ex-husband obtained a title loan without her consent even though she was also on the title as an owner of the vehicle. The lender agreed to release the lien since both parties did not consent to the title loan.• One related to a loan falsely obtained by a minor. The Division advised the licensee that the loan was void since the lender did not require identification from the borrower as required by the Act. The lender had to release the lien and could not collect on the loan. Wrote off the loan as a loss.
FY 2007	<p>Two complaints:</p> <ul style="list-style-type: none">• One concerned how payments were applied to a loan. The lender resolved the matter by making several corrections to the borrower's account history.• One complaint was about a vehicle repossession. The Division determined the licensee to be in compliance with state law.
FY 2006	<p>Nine complaints:</p> <ul style="list-style-type: none">• Seven complaints were filed by borrowers who disputed fees, loan payoffs and how payments were applied to loans. These complaints and loan files were reviewed by members of the Division's examination staff, who determined that there were no violations of the Act.• One complaint related to the lien placed on the vehicle. This complaint was settled by the lender and borrower.• One complaint regarded a borrower's regarding her account history and vehicle repossession. This complaint was settled by the lender and borrower.

4. According to the information we have available, the majority of states do not have laws specifically addressing title loans. Kentucky's rate cap of 3% per month on loan balances of \$1,000 or less has reportedly been in existence since 1998. Kentucky indicates that it no longer has any title lenders in business.

A copy of a recent table detailing small loan costs nationally, prepared by three national consumer organizations, is attached. The third column of the table provides an explanation of the cost in each state for a one month, \$300 title loan.

We hope the information provided here is helpful to you and your colleagues. If you have questions or need additional information, please contact us.

Sincerely,



Chris Olson
Deputy Commissioner
Division of Banking and Financial Institutions

ADMINISTRATIVE RULES – MONTANA DEFERRED DEPOSIT LOAN ACT

2.59.1501 DEFINITIONS

For the purposes of this subchapter, the following definitions apply:

(1) "Commissioner" means the Commissioner of Banking and Financial Institutions provided for in 32-1-211, MCA.

(2) "Department" means the Department of Administration established in 2-15-1001, MCA, and includes the Commissioner of the Division of Banking and Financial Institutions and the Division of Banking and Financial Institutions.

(3) "Fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings" means embezzlement, money laundering, identity theft, theft, and other financial related crimes and judgments.

(4) "Manager" means a person employed by a deferred deposit lender as the person responsible for operating the business at the location where the person is employed.

(5) "Monthly net income" means gross salary minus taxes and voluntary deductions. This term includes income from public assistance, child support, alimony, unemployment insurance payments, workers' compensation, and other verifiable sources.

History: 31-1-702, MCA; IMP, 31-1-702, 31-1-705, 31-1-711, 31-1-713, 31-1-722, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178; AMD, 2007 MAR p. 184, Eff. 6/2/06.

2.59.1502 APPLICATION PROCEDURE REQUIRED TO ENGAGE IN DEPOSIT LENDING

(1) All existing or proposed licensees shall file with the department an application to engage in deferred deposit lending.

(2) An application must be in writing on a form prescribed by the department and verified under oath. Application forms are available from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(3) In addition to any other information that may be required by 31-1-705, MCA, the application shall contain the following information in the application format prescribed by the department:

(a) biographical data concerning the applicant, the applicant's owners, parent company, affiliates, or subsidiaries as specified by the department;

(b) information concerning the applicant's character, experience, qualifications; and

(c) financial information about the applicant.

(4) Except for those entities listed in (5), all persons or lenders must obtain a license under this rule in order to issue deferred deposit loans. Persons or lenders that are licensed under the Consumer Loan Act, 32-5-101, MCA, and the Title Loan Act, 31-1-801, MCA, are not exempt from the licensing requirements of 31-1-701, MCA.

(5) The following are exempt from the licensing requirements:

(a) federal and state chartered banks;

(b) federal and state chartered savings and loans;

(c) federal and state credit unions;

(d) trust companies; and

(e) investment companies.

History: 31-1-702, MCA; IMP, 31-1-702, 31-1-705, 31-1-722, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178; AMD, 2007 MAR p. 184, Eff. 6/2/06.

2.59.1503 UNENCUMBERED ASSETS AS ADDITIONAL SURETY

(1) The statutorily required \$25,000 in unencumbered assets shall serve as additional surety for the licensee's operations. These assets shall remain unencumbered.

History: 31-1-702, MCA; IMP, 31-1-702, 31-1-705, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178.

2.59.1504 OWNERSHIP CHANGE IN THE DEFERRED DEPOSIT LENDER

(1) In the event there is a change of ownership in a licensee, the owner(s) shall file with the department an application for a new license. For purposes of this rule, a change in ownership includes circumstances when 25% or more of the ownership is transferred to a new owner.

History: 31-1-702, MCA; IMP, 31-1-702, 31-1-705, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178.

2.59.1505 EXAMINATION OF DEFERRED DEPOSIT LENDERS

(1) The department shall annually conduct an examination of each deferred deposit loan licensee's lending operations to ensure compliance with both statute and administrative rule.

(2) The examination shall consist of a comprehensive review of the records, operations and affairs of the licensee. The review shall include inquiry into:

- (a) accounting and financial records;
- (b) records of the borrower's files including:
 - (i) evidence of required disclosures;
 - (ii) use of a department approved loan agreement; and
 - (iii) assurance of continued capital adequacy and bonding.

History: 31-1-702, MCA; IMP, 31-1-701, 31-1-711, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178.

2.59.1506 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee:

(a) hearings and related discovery shall be done under the Montana Administrative Procedure Act implementing the Revised Attorney General Model Rules effective June 4, 1999.

(2) The Department of Administration, Division of Banking and Financial Institutions, adopts and incorporates by reference the Attorney General's Model Rules effective June 4, 1999 as found in ARM 1.3.101 through 1.3.233, along with the accompanying forms. A copy of the Attorney General rules may be obtained from the Division of Banking and Financial Institutions, Department of Administration at 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

History: 31-1-702, MCA; IMP, 31-1-702, 31-1-713, MCA; NEW, 2000 MAR p. 71, Eff. 11/5/99; TRANS, from Commerce, 2001 MAR p. 1178.

2.59.1507 REPORTS

(1) The following must be reported to the department:

- (a) any instances of theft from the deferred deposit loan business within ten days of discovery of the theft;
- (b) any change in managers within ten days of each occurrence; and
- (c) all officer questionnaires must be answered within ten days of the end of any examination.

History: 31-1-702, MCA; IMP, 31-1-702, MCA; NEW, 2006 MAR p. 1373, Eff. 6/2/06.

2.59.1508 SCHEDULE OF CHARGES

(1) Every licensee under the Montana Deferred Deposit Loan Act shall file with the commissioner in duplicate, at the time of filing application for such license or license renewal, a full and accurate schedule of all charges, fees, and costs as follows:

- (a) interest rate;

- (b) nonsufficient fund fees; and
 - (c) examples of typical loan amounts including principal, interest, and fees.
- (2) Licensees shall display such schedule prominently in each licensed place of business where loans are made or negotiated so as to be easily readable by borrowers and prospective borrowers.

History: 31-1-702, MCA; IMP , 31-1-721, MCA; NEW , 2006 MAR p. 1373, Eff. 6/2/06.

2.59.1509 RESERVED

2.59.1510 EMPLOYEES' CHARACTER AND FITNESS

- (1) Licensees are responsible for conducting appropriate background checks on new employees hired after July 1, 2006. At a minimum, each licensee shall:
- (a) require completion of employee criminal background questionnaire;
 - (b) verify and document employment and personal references; and
 - (c) within ten days of start of employment, request a Montana criminal records check from the Montana Department of Justice.
- (2) If the background check demonstrates any criminal convictions involving fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings, the licensee cannot employ such person, or if already employed, must terminate employment.
- (3) Verification of compliance with this rule shall occur during annual exams. Licensees are required to keep accurate employment records on each employee to ensure that the department is able to verify compliance.
- (4) A criminal records check conducted by another agency or private company may be used by licensees as a substitute for the records check by the Montana Department of Justice as long as the information provided by the substitute records check contains the same information as the check conducted by the Montana Department of Justice.

History: 31-1-702, MCA; IMP , 31-1-705, MCA; NEW , 2006 MAR p. 1373, Eff. 6/2/06.

2.59.1511 RESERVED

2.59.1512 ELECTRONIC DEDUCTIONS

- (1) An electronic deduction for nonsufficient funds may be authorized by the borrower only on the original loan agreement.
- (2) An electronic deduction for nonsufficient funds shall be separate and apart from an electronic deduction for the amount of the loan, interest, or any fees.
- (3) An electronic deduction for nonsufficient funds authorized by the borrower under (1) may not be presented to the borrower's financial institution until the licensee has presented the check for payment.

History: 31-1-702, MCA; IMP , 31-1-703, MCA; NEW , 2006 MAR p. 1373, Eff. 6/2/06.

2.59.1513 INCOME VERIFICATION

- (1) Licensees shall verify a borrower's income prior to issuing any deferred deposit loan.
- (2) Verification of income shall be in a form of most recent pay stubs for employment, or other official documents for public assistance, child support, alimony, unemployment insurance, and workers' compensation.

History: 31-1-702, MCA; IMP , 31-1-723, MCA; NEW , 2006 MAR p. 1373, Eff. 6/2/06.

ADMINISTRATIVE RULES – MONTANA TITLE LOAN ACT

2.59.1401 DEFINITIONS

For the purposes of the Montana Title Loan Act and this subchapter, the following definitions apply:

(1) "Borrower" in the case of jointly owned property, means all owners of the property listed on the title.

(2) "Commissioner" means the Commissioner of Banking and Financial Institutions provided for in 32-1-211, MCA.

(3) "Department" means the Department of Administration established in 2-15-1001, MCA, and includes the commissioner of the Division of Banking and Financial Institutions.

(4) "Original title loan" means the title loan agreement which is the basis for taking possession of the title and perfecting a security interest in the titled property.

(5) "Fraud or financial dishonesty" includes, but is not limited to:

(a) a conviction, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a conviction that involves robbery, illegal gambling, receiving stolen property, counterfeiting, extortion, check, credit card, or computer violations set forth in criminal laws, deception, fraud, theft, embezzlement, defrauding a creditor, issuing a bad check, deceptive practices, deceptive business practices, misappropriation of funds or property, misrepresentation, omission of material facts, unauthorized use of property, forgery, identity theft, or money laundering.

(6) "Fraudulent or dishonest financial dealings" includes, but is not limited to:

(a) a civil judgment, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a civil judgment that involves deception, fraud, conversion, misappropriation of funds, misrepresentation, omission of material facts, forgery, unauthorized use of money or property, failure to pay taxes, or bad checks.

(7) "Redemption date" is the maturity date of the original title loan and any subsequent renewals.

(8) "Renewal of a loan" means an agreement whereby the licensee agrees to extend the due date beyond the term of the original title loan without releasing the security interest on the titled property.

(9) "Restitution" may include, but is not limited to, refunds of any or all the interest and fees paid by the borrower and voiding any lien or security interest obtained in violation of the Title Loan Act.

(10) "Unencumbered title" or "clear title" means a valid state-issued certificate of title that has no liens or encumbrances attached.

History: 31-1-802, MCA; IMP, 31-1-803, 31-1-804, 31-1-805, 31-1-810, 31-1-811, 31-1-812, 31-1-815, 31-1-816, 31-1-818, 31-1-820, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1402 LICENSING AND APPLICATION REQUIREMENTS - EXCEPTIONS

(1) Except for those entities listed in (2), all persons or lenders must obtain a license under this rule in order to issue title loans. Persons or lenders that are licensed under the Consumer Loan Act, 32-5-101, MCA, or Deferred Deposit Loan Act, 31-1-701, MCA, are not exempt from the licensing requirements of 31-1-801, MCA.

(2) The following are exempt from the licensing requirements:

(a) federal and state chartered banks;

(b) federal and state chartered savings and loans;

(c) federal and state chartered credit unions;

(d) trust companies; and

(e) investment companies.

(3) All existing or proposed licensees shall file with the department an application in order to engage in title lending.

(4) An application must be in writing on a form prescribed by the department and verified under oath. Application forms are available from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(5) In addition to any other information that may be required by 31-1-805, MCA, the application shall contain the following information in the application format prescribed by the department:

(a) biographical data concerning the applicant, the applicant's owners, parent company, affiliates, or subsidiaries as specified by the department;

(b) information concerning the applicant's character, experience, qualifications;

(c) financial information about the applicant; and

(d) the interest calculation tool or program that the applicant will use to calculate interest on title loans and interest rate reductions that occur beginning with the sixth renewal of a title loan.

History: 31-1-802, MCA; IMP, 31-1-804, 31-1-805, 31-1-811, 31-1-816, 31-1-817, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1403 TITLE LOAN DESIGNATION

(1) The department designates that a title loan is:

(a) a nonpurchase money loan secured by an unencumbered state issued title to personal property;

(b) on which the annual percentage rate exceeds 35%; and

(c) the lender does not take physical possession of the titled personal property.

(2) If a loan meets the criteria set forth in (1), the entity making it must be licensed as provided in Title 31, chapter 1, part 8, MCA, and must comply with the provisions of Title 31, chapter 1, part 8, MCA, and these rules, except as provided in 31-1-802(5), MCA.

History: 31-1-802, MCA; IMP, 31-1-803, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1404 NOTIFICATION TO THE DEPARTMENT

(1) The licensee shall notify the department by the close of business on the business day following:

(a) a change in the physical location of the office;

(b) any change in the phone number of the business;

(c) a change in the nature of the business;

(d) any change in the board of directors, principal officers, trustees, or limited liability company managers or member-managers;

(e) the acquisition or disposition of another company;

(f) any civil action involving fraud or dishonesty filed against the licensee;

(g) any criminal charge involving fraud or financial dishonesty filed against the licensee;

(h) any change which would cause the department not to issue a license, if it had occurred before licensure; and

(i) the addition of other business to be conducted at the location.

History: 31-1-802, MCA; IMP, 31-1-805, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1405 OWNERSHIP CHANGE

(1) In the event there is a change of ownership in a licensee, the owner(s) shall file with the department an application for a new license. The applicant may not make any loans until they have been appropriately licensed.

(2) For purposes of this rule, a person shall be deemed to own the licensee if the person, directly or indirectly, or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with the power to vote, or holds proxies representing 25% or more of the voting shares or rights of such company, or controls in any manner the election or

appointment of 25% of the directors, managers, member-managers, or trustees of a company, or is a general partner in or has contributed 25% or more of the capital of the company.

History: 31-1-802, MCA; IMP, 31-1-805, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1406 EXAMINATION OF TITLE LENDERS

(1) The department may conduct an examination of each title loan licensee's lending operations to ensure compliance with both statutes and administrative rules.

(2) The department may examine the records or any location where records may be found of any licensee or a person who may be in violation of Title 31, chapter 1, part 8 or these rules.

(3) The examination shall consist of a comprehensive review of the records, operations, and affairs of the licensee. The review shall include, but is not limited to, inquiry into:

- (a) accounting and financial records;
- (b) records of the borrower's files including:
 - (i) evidence of required disclosures;
 - (ii) use of the loan agreement on file with the department; and
 - (iii) assurance of continued bonding.

(4) The department shall provide the licensee with an oral and written report which details the areas examined and any deficiencies found.

History: 31-1-802, MCA; IMP, 31-1-803, 31-1-810, 31-1-815, 31-1-816, 31-1-817, 31-1-818, 31-1-819, 31-1-820, 31-1-821, 31-1-822, 31-1-825, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1407 RESCINDED LOANS

(1) The licensee shall keep all records required by 31-1-821, MCA, for rescinded loans in a separate file and retain those records according to records retention schedules as set by state or federal law, whichever is longer.

History: 31-1-802, MCA; IMP, 31-1-815, 31-1-816, 31-1-821, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1408 FAILURE TO CORRECT DEFICIENCIES

(1) The department may suspend or revoke a license of an entity as provided in 31-1-811, MCA, that does not correct the deficiencies found by the department after an examination within the time frame granted by the department.

History: 31-1-802, MCA; IMP, 31-1-810, 31-1-811, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1409 DURATION OF LOANS – INTEREST

(1) Each original title loan must have a term of 30 days.

(2) The loan agreement may provide for 30-day renewal periods beyond the original term if principal and interest are not paid in full on the maturity date. Any 30-day renewal period must be clearly stated on the face of the loan agreement in bold, capital letters. In addition to any other disclosures that may be required by law, licensees must provide the borrower, in the original title loan agreement or by addendum, a statement of the principal and interest which would be due over a six-month period if the borrower fails to make any payments as set forth in Illustration A. This chart is illustrative only. A borrower must make a payment toward the principal or interest every 60 days. However, for the sake of illustration, this chart assumes no such payment is made. If the borrower does not make a payment toward principal or interest within 60 days, the loan is placed into default. Such statement must be initialed by the borrower at the time of the original loan and include the borrower's affirmation that the borrower has been shown and read the statement.

Illustration A

	Principal	Interest Per Month at 25%	Accrued Interest at 25%	Total Amount Due
Original Loan	\$500.00	\$125.00	\$125.00	\$625.00
Renewal 1	\$500.00	\$125.00	\$250.00	\$750.00
Renewal 2	\$500.00	\$125.00	\$375.00	\$875.00
Renewal 3	\$500.00	\$125.00	\$500.00	\$1,000.00
Renewal 4	\$500.00	\$125.00	\$625.00	\$1,125.00
Renewal 5	\$500.00	\$125.00	\$750.00	\$1,250.00
Renewal 6	\$500.00	\$125.00	\$875.00	\$1,375.00

(3) On the business day following either the end of the original 30-day loan period, or the end of any agreed upon 30-day renewal period, licensees must provide, in person or by mail at the borrower's last known address, a statement disclosing the finance charges that will accrue with the renewal, the new maturity date of the loan, the amount financed, and the annual percentage rate (APR). Licensees may not collect interest on the renewal without proof of having provided the borrower such a statement.

(4) Interest may not compound from one renewal to another.

(5) Interest accrues on a daily basis.

(6) Interest may not be collected before it accrues.

(7) Interest may not be charged on fees.

(8) A licensee may not continue to accrue interest after the expiration of a title loan agreement, after the period of renewal, or after the redemption date of the loan.

(9) A licensee shall not extend or grant any additional credit other than that which was granted in the original title loan agreement without first requiring full payment of all principal and interest due on the original title loan and all subsequent renewals, and releasing the security interest in the titled property.

(10) Licensees may not issue a new original loan to pay off the previous original loan.

(11) Licensees shall apply payments to fees, interest, and principal in the following order:

(a) first, to accrued fees;

(b) then, to interest; and

(c) then to principal.

History: 31-1-802, MCA; IMP, 31-1-816, 31-1-817, 31-1-818, 31-1-825, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1410 EXTENSIONS - REDUCTION OF PRINCIPAL

(1) In the event that a borrower fails to reduce the principal and interest as required in 31-1-816, MCA, a licensee at its option may either:

(a) declare the full outstanding principal and interest due and payable; or

(b) reduce the amount of principal balance used to calculate interest by 10% every 30 days beginning 180 days from the beginning of the original title loan agreement. In such event, the licensee must comply with all the requirements of ARM 2.59.1409 for renewals.

(2) Under no circumstances may a licensee charge interest or fees beyond the fifteenth renewal.

History: 31-1-802, MCA; IMP, 31-1-816, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1411 DEPARTMENT'S COST OF ADMINISTRATIVE ACTION

(1) The department may order reimbursement of its costs of bringing the administrative action which may include but are not limited to:

- (a) examiner time charges;
- (b) department legal counsel time charges;
- (c) administrative law judge charges;
- (d) court reporter costs;
- (e) transcription fees;
- (f) document preparation fees;
- (g) other hearing costs;
- (h) costs of subpoenaing documents;
- (i) any other cost is incurred by the department in bringing the action; and
- (j) travel costs.

History: 31-1-802, MCA; IMP, 31-1-811, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1412 EXAMINATION FEES

(1) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the title lender may be suspended or revoked as provided by 31-1-811, MCA, until the fees are paid.

History: 31-1-802, MCA; IMP, 31-1-810, 31-1-811, MCA; NEW, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1413 REPORTS

(1) The following must be reported to the department:

- (a) any instances of theft within ten days of the discovery of the theft;
- (b) any change in managers within ten days of each occurrence; and
- (c) all questionnaires must be answered within ten days of the exit of the examination.

History: 31-1-802, MCA; IMP, 31-1-810, 31-1-815, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1414 SCHEDULE OF CHARGES

(1) Every licensee under the Montana Title Loan Act shall file with the department in duplicate, at the time of filing application for such license or license renewal, a full and accurate schedule of all charges, fees, and costs as follows:

- (a) the interest rate for each 30-day period;
- (b) nonsufficient fund fees;
- (c) lien recording and release fees;
- (d) examples of typical loan amounts including principal, interest and fees; and
- (e) a statement that storage fees and repossession costs may be added to the amount due based upon actual cost of these services to the licensee.

(2) Licensees shall display such schedule prominently in each licensed place of business where loans are made or negotiated so as to be easily readable by borrowers and prospective borrowers.

History: 31-1-802, MCA; IMP, 31-1-816, 31-1-817, 31-1-818, MCA; NEW, 2006 MAR p. 883, Eff. 4/7/06; AMD, 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1415 REQUIRED RECORD KEEPING

(1) Each licensee shall keep the following records, accounts, and books for a minimum of 24 months from the date the loan agreement was signed by the borrower, or longer if required by federal law:

- (a) all loan documents signed by or given to the borrower;
- (b) all loan application documents;
- (c) all records of payments made by the borrower, including the date and amount of the payment;
- (d) account files detailing the application of borrower payments to interest, principal, and other fees;
- (e) account files recording the accrual of interest updated every 30 days;

- (f) copies of loan renewal agreements and disclosures;
- (g) copies of paid loan agreements;
- (h) invoices for repossession, towing, and storage of titled personal property;
- (i) an accurate statement or photograph that documents the condition of the titled personal property after repossession but before sale; and
- (j) the bill of sale of repossessed titled personal property.

History: 31-1-802, MCA; IMP , 31-1-815, 31-1-821, MCA; NEW , 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1416 EMPLOYEES' CHARACTER AND FITNESS

- (1) Licensees are responsible for conducting appropriate background checks on all new employees hired after May 1, 2006. At a minimum, each licensee shall:
- (a) require completion of employee criminal background questionnaire;
 - (b) verify and document employment and personal references; and
 - (c) within ten days of start of employment, request a Montana criminal records check from the Department of Justice.

(2) If the background check demonstrates any criminal convictions involving fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings, the licensee cannot employ such person, or if already employed, must terminate employment.

(3) Verification of compliance with this rule shall occur during annual examinations. Licensees are required to keep accurate employment records on each employee to ensure that the department is able to verify compliance.

History: 31-1-802, MCA; IMP , 31-1-805, MCA; NEW , 2006 MAR p. 883, Eff. 4/7/06.

2.59.1417 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee, hearings and related discovery shall be done under the Montana Administrative Procedure Act implementing the revised Attorney General's Model Rules effective June 4, 1999.

(2) The Department of Administration, Division of Banking and Financial Institutions, adopts and incorporates by reference the Attorney General's Model Rules effective June 4, 1999 as found in ARM 1.3.101 through 1.3.233, along with the accompanying forms. A copy of the Attorney General's rules may be obtained from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

History: 31-1-802, MCA; IMP , 31-1-811, 31-1-812, 31-1-826, 31-1-841, MCA; NEW , 2006 MAR p. 883, Eff. 4/7/06; AMD , 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1418 SALE OF REPOSSESSED PROPERTY

(1) The sale of repossessed titled personal property shall be conducted in a commercially reasonable manner.

History: 31-1-802, MCA; IMP , 31-1-816, 31-1-818, 31-1-820, MCA; NEW , 2008 MAR p. 1571, Eff. 8/1/08.

2.59.1419 UNFAIR PRACTICE

(1) It is an unfair practice to renew a title loan if the borrower has failed to make a payment toward either principal or interest for 60 days.

History: 31-1-802, MCA; IMP , 31-1-825, MCA; NEW , 2008 MAR p. 1571, Eff. 8/1/08.

Small Dollar Loan Products Scorecard: Statutory Backup

Consumers Union, the National Consumer Law Center, Consumer Federation of America

(Updated 7/1/08)

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
Alabama	<p>17.5% of the amount advanced. Ala. Code § 5-18A-12.</p> <p>Checkholding and electronic debit authorization permitted. Ala Code § 5-18A-2.</p>	25% of the principal amount, per month, advanced. Ala. Code § 5-19A-7.	<p>3% per month on that part of the unpaid principal balance not in excess of \$200, and 2% per month on that part of the unpaid principal balance in excess of \$200 but less than \$1,000. Also may charge account maintenance fee of \$3 for each month of the scheduled period of repayment of the loan provided that the scheduled monthly payments are equal to or greater than \$30. Ala. Code § 5-18-15.</p> <p>Interest may be precomputed.</p>	<p>Except under open-end credit plans, the maximum finance charge for any credit transaction where the original amount financed is less than \$2,000, finance charge may equal but may not exceed the total of the following: (1) \$15 per \$100 per year for the first \$750 of the original amount financed; and (2) \$10 per \$100 per year for that portion of the original amount financed over \$750 and less than \$2,000. Ala. Code § 5-19-3.</p> <p>AND</p> <p>(a) In addition to other lawful charges under various state laws, and notwithstanding any restrictions thereunder, an interest surcharge of not more than 6% of the part of the amount financed, which is not in excess of two thousand dollars (\$2000). Ala. Code § 8-8-14.</p>	None.
Alaska	<p>Nonrefundable origination fee not to exceed \$5; plus fee of \$15 per each \$100 of an advance, or 15% of the total amount, whichever is less. Alaska Stat. § 06.50.460.</p> <p>Lender permitted to hold "the recipient's check that secures the advance." Alaska Stat. § 06.50.530.</p> <p>Electronic debiting</p>	None.	<p>3% per month on that part of the unpaid principal balance of a loan not in excess of \$850. Alaska Stat. § 06.20.230.</p>	<p>2% per month on that part of the unpaid principal balance for amounts from \$850 to \$10,000. Alaska Stat. § 06.20.230.</p>	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	permitted. Alaska Stat. § 06.20.230.				
Arizona	15% of face amount of check. Ariz. Rev. Stat. § 6- 1260. Checkholding permitted.	17% per month Ariz. Rev. Stat. §§ 44-281, 44- 291.	36% per year for loans \$1,000 and less. Ariz. Rev. Stat. § 6-632.	36% per year for loans \$1,000 and less. Ariz. Rev. Stat. § 6- 632.	A person commits usury by knowingly engaging in or directly or indirectly providing financing for the business of making loans at a higher rate of interest or consideration than authorized by law. Usury is a class 1 misdemeanor. Ariz. Rev. Stat. § 13-2208
Arkansas	10% of face amount of check plus \$10 fee plus one-time \$5 account set-up fee. Ark. Code Ann. § 23-52-104. Checkholding permitted.	None.	17% per year. Ark. Const. art. 19, § 13.	17% per year. Ark. Const. art. 19, § 13.	None.
California	15% of face amount of check. Cal. Fin. Code § 23036. Checkholding permitted.	None.	2.5% per month on that portion of the unpaid principal balance up to \$225; 2% per month on that portion of the unpaid principal balance over \$225 and up to \$900. Cal. Fin. Code § 22303. and an administrative fee of 5% or \$50, whichever is less. § 22305.	2.5% per month on that portion of the unpaid principal balance up to \$225; 2% per month on that portion of the unpaid principal balance over \$225 and up to \$900; 1.5% per month on that portion of the unpaid principal balance over \$900 and up to \$1,650. Cal. Fin. Code § 22303. AND an administrative fee of 5% or \$50, whichever is less. § 22305.	None.
Colorado	20% of first \$300 plus 7.5% of amount in excess of \$300. Colo. Rev. Stat. § 5-3.1-105. Checkholding permitted. Authorization to transfer or withdraw funds from customer's account is permitted. Colo. Rev. Stat. § 5-3.1- 102(4). Lender may require consumer to provide post-dated check or electronic	None.	For a consumer loan where the amount financed is not more than \$1,000, a supervised lender may charge, in lieu of the loan finance charges permitted by section 5-2-201, the following finance charges: 1) an acquisition charge for making the original loan, not to exceed 10% of the amount financed; (2) an acquisition charge for	For a consumer loan where the amount financed is not more than \$1,000, a supervised lender may charge, in lieu of the loan finance charges permitted by section 5-2-201, the following finance charges: 1) an acquisition charge for making the original loan, not to exceed 10% of the amount financed; (2) an acquisition charge for making any refinanced loan, not to exceed 7.5% of the amount	45% unless otherwise permitted by law. Class 6 felony. Colo. Rev. Stat. § 18-15-104. Separate crime for extortionate extension of credit using any means which involve the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person. Class 4 felony. Colo. Rev. Stat. §§ 18-15-101,

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	authorization for funds transferred for each payment due under payment plan. Colo. Rev. Stat. § 5-3.1-108.		making any refinanced loan, not to exceed 7.5% percent of the amount financed; and (3) a monthly installment account handling charge, not to exceed the following amounts: \$100-\$300-- \$12.50; \$300.01-\$500-- \$15.00; \$500.01-\$750-- \$17.50; \$750.01-\$1,000-- \$20.00. The minimum term of a loan made pursuant to this section shall be 90 days. The maximum term of a loan made pursuant to this section shall be 12 months. Colo. Rev. Stat. § 5-2-214.	financed; and (3) a monthly installment account handling charge, not to exceed the following amounts: \$100-\$300-- \$12.50; \$300.01-\$500-- \$15.00; \$500.01-\$750-- \$17.50; \$750.01-\$1,000-- \$20.00. The minimum term of a loan made pursuant to this section shall be 90 days. The maximum term of a loan made pursuant to this section shall be 12 months. Colo. Rev. Stat. § 5-2-214.	18-15-102.
Connecticut	None.	None.	\$17 per \$100 per year on that part of the cash advance up to \$600, and \$11 per \$100 per year on any remainder when the loan is made payable over a period of one year, and proportionately at those rates over a longer or shorter term. Conn. Gen. Stat. § 36a-563.	\$17 per \$100 on that part of the cash advance up to \$600, and \$11 per \$100 per on any remainder when the loan is made payable over a period of one year, and proportionately at those rates over a longer or shorter term. Conn. Gen. Stat. § 36a-563.	12% unless otherwise provided by law. Conn. Gen. Stat. § 37-4. Fine of not more than \$1,000 or imprisoned not more than 6 months or both. Conn. Gen. Stat. § 37-7.
Delaware	Any rate that "the agreement governing the loan provides" Del. Code Ann. tit. 5 § 2229.	None.	No rate limit. Established by agreement. Del. Code Ann. tit. 5 §§ 961 to 978 (banks), §§ 2227 to 2238 (licensed lenders).	No rate limit. Established by agreement. Del. Code Ann. tit. 5 §§ 961 to 978 (banks), §§ 2227 to 2238 (licensed lenders).	None.
District of Columbia	Amended law D.C. Code Ann. § 26-301 et seq. § 28-3301(a) sets the rate cap at 24%.	None.	24 % rate cap. D.C. Code Ann. § 28-3301(a).	24 % rate cap. D.C. Code Ann. § 28-3301(a).	None.
Florida	10% of the currency or payment instrument provided. May also charge verification fee. Fla.	30% per year on the first \$2,000 of the principal amount. Fla. Stat. Ann. § 537.011.	30% per year on the first \$2,000 of the principal amount as computed from time to time. Computations	30% per year on the first \$2,000 of the principal amount as computed from time to time. Computations	25% and up for different degrees of crime, unless otherwise provided by law. Fla. Stat. Ann § 687.071.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	Stat. Ann. § 560.404(6). Verification fee collected only when verification is conducted and cannot exceed \$5 per transaction. Fla. Admin. Code Ann. 69V-560.801. Checkholding permitted.		utilized shall be simple interest and not add-on interest or any other computations. Fla. Stat. Ann. § 516.031.	utilized shall be simple interest and not add-on interest or any other computations. Fla. Stat. Ann. § 516.031.	
Georgia	Ga. Code Ann. §§ 16-17-1 to 16-17-10 specifically prohibits payday lending and imposes penalties for doing so.	Pawnbroker Law. For each 30-day period, interest and pawnshop charges which together equal no more than 25 percent of the principal amount. Ga. Code Ann. § 44-12-131(4) (A).	10% per year. Interest may be discounted in advance on loan contracts repayable in 18 months or less. May also charge a fee of 8% of the first \$600 of face amount of contract plus 4% of the excess. Ga. Code Ann. § 7-3-14.	10% per year. Interest may be discounted in advance on loan contracts repayable in 18 months or less. May also charge a fee of 8% of the first \$600 of face amount of contract plus 4% of the excess. Ga. Code Ann. § 7-3-14.	Rate greater than 5% per month is prohibited, except prohibition does not apply to licensed pawnbrokers. Violation is a misdemeanor. § 7-4-18.
Hawaii	15% of face amount of check. Hawaii Rev. Stat. Ann. § 480F-4(c). Checkholding permitted.	None.	14% pre-computed interest per year for the first 18 months; or 24% per year. Hawaii Rev. Stat. Ann. § 412:9-302.	14% pre-computed interest per year for the first 18 months; or 24% per year. Hawaii Rev. Stat. Ann. § 412:9-302.	Receiving interest over rate permitted by law is usury punishable by fine of not more than \$250, or imprisonment of not more than one year, or both. Hawaii Rev. Stat. Ann. § 478-6.
Idaho	Any fee per \$100 that borrower agrees to pay. Idaho Code Ann. § 28-46-412. Checkholding permitted. Electronic debiting allowed. Idaho Code Ann. § 28-46-412.	No fee/interest rate cap specified. Idaho Code Ann. § 28-46-501 to 509.	Finance charge is that which is agreed upon between the parties. In addition, may contract for and receive any other charge, except to the extent expressly prohibited by law. Idaho Code Ann. § 28-42-201.	Finance charge is that which is agreed upon between the parties. In addition, may contract for and receive any other charge, except to the extent expressly prohibited by law. Idaho Code Ann. § 28-42-201.	None.
Illinois	\$15.50 per \$100 loaned. 815 Ill. Comp. Stat. Ann. § 122/2-5. Checkholding is allowed and authorization to debit a bank account is permitted. 815 Ill. Comp. Stat. Ann. § 122/1-1.	No fee/interest cap specified, but rate is, by definition, over 36%. "Title-secured loan" is a loan upon which interest is charged at an APR exceeding 36% and for a term of not more than 60 days. Ill. Admin. Code tit. 38, § 110.300. Taking possession of title is permitted,	Any rate agreed to by contract parties. 205 Ill. Comp. Stat. Ann. § 670/15.	Any rate agreed to by contract parties. 205 Ill. Comp. Stat. Ann. § 670/15.	20% per year unless otherwise permitted by law. Does not apply to loans made by licensees under the Consumer Installment Loan Act or to other specified loans. 720 ILCS §§ 5/39-1, 5/39-3. Criminal usury is a Class 4 felony. 720 ILCS § 5/39-2.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
		but not keys, unless provided for in loan agreement. Ill. Admin. Code tit. 38, §§ 110.350, .390.			
Indiana	Finance charges on the first \$250 are limited to 15% of the principal. Ind. Code Ann. § 24- 4.5-7-201. Checkholding and electronic debiting are permitted. Ind. Code Ann. § 24- 4.5-7-104.	None.	36% per year on amounts financed up to \$1,020. Ind. Code Ann. § 24- 4.5-3-508.	36% per year on amounts financed up to \$1,020. Ind. Code Ann. § 24- 4.5-3-508.	45% if the lender had a reputation for the use or threat of use of violence or other criminal means to cause harm when collecting the debt or punishing the non-payment thereof. Ind. Code 24-4.5-5-107. Alternatively, charging greater than 72% constitutes loan- sharking. Ind. Code 35-45-7-2.
Iowa	\$15 on first \$100 of face amount of check; \$10 on subsequent \$100 increments or pro rata portion of \$100 face value. Iowa Code § 533D.9. Checkholding permitted.	10% discounted in advance plus a service charge of \$1 for each \$50 of the amount of the note, not to exceed a total of \$120. Iowa Code §§ 536A.23, 537.2403.	36% on amounts up to \$1,000. Iowa Code § 536.13(4) and (5); Iowa Admin. Code r. 187-15.5.	36% on amounts up to \$1,000. Iowa Code § 536.13(4) and (5); Iowa Admin. Code r. 187- 15.5.	None.
Kansas	15% of the cash advance amount. Kan. Stat. Ann. §16a-2-404 (1) (c). Checkholding permitted.	None.	36% per year on the portion of the unpaid balance which is \$860 or less. Kan. Stat. Ann. § 16a-2- 401.	36% per year on the portion of the unpaid balance which is \$860 or less, and 21% on the portion of the unpaid balance which exceeds \$860. Kan. Stat. Ann. § 16a-2-401.	None.
Kentucky	\$15 per \$100 on the face amount of the check. A licensee shall prorate any fee, based upon the maximum fee of \$15. Ky. Rev. Stat. Ann. § 286.9-100. Checkholding permitted.	3% per month on that part of the unpaid principal balance not in excess of \$1,000. Ky. Rev. Stat. Ann. §§ 286.10-260, 286.4-530.	3% per month on that part of the unpaid principal balance up to \$1,000. Ky. Rev. Stat. Ann. § 286.4-530.	3% per month on that part of the unpaid principal balance up to \$1,000. Ky. Rev. Stat. Ann. § 286.4- 530.	None.
Louisiana	16.75% of the face amount of the check but no more than \$45. La. Stat. Ann. § 9:3578.4. Plus \$5 document fee. La. Stat. Ann. § 9:3530C.	None.	36% per year on that portion of the unpaid principal amount of the loan not exceeding \$1,400. La. Rev. Stat. Ann. § 9:3519.	36% per year on that portion of the unpaid principal amount of the loan not exceeding \$1,400. La. Rev. Stat. Ann. § 9:3519.	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	Checkholding permitted.				
Maine	Minimum finance charge permitted of \$5 when the amount financed does not exceed \$75; \$15 when the amount financed exceeds \$75, but is less than \$250; or \$25 when the amount financed is \$250 or more. Me. Rev. Stat. Ann. tit. 9-A § 2- 401.	None.	30% per year on that part of the unpaid balances of the amount financed that is \$2,000 or less. Me. Rev. Stat. Ann. tit. 9-A § 2- 401.	30% per year on that part of the unpaid balances of the amount financed that is \$2,000 or less. Me. Rev. Stat. Ann. tit. 9-A § 2-401.	None.
Maryland	None.	None.	2.75% per month on that part of the unpaid principal balance not more than \$500. Md. Code Ann. Com. Law II § 12-306.	2.75% per month on that part of the unpaid principal balance not more than \$500; 2% on that part of the unpaid principal balance that is more than \$500 but not more than \$700; and 1.25% on that part of the unpaid principal balance that is more than \$700. Md. Code Ann. Com. Law II § 12-306.	None.
Massachusetts	None.	None.	23% per year of the unpaid balances of the amount financed calculated according to the actuarial method plus an administrative fee of \$20. This fee cannot be assessed more than once during any 12-month period. Mass. Gen. Laws Ann. ch. 140, § 96 <i>et</i> <i>seq.</i> ; 209 Mass. Code Regs. § 26.01.	23% per year of the unpaid balances of the amount financed calculated according to the actuarial method plus an administrative fee of \$20. This fee cannot be assessed more than once during any 12-month period. Mass. Gen. Laws Ann. ch. 140, § 96 <i>et</i> <i>seq.</i> ; 209 Mass. Code Regs. § 26.01.	20% unless otherwise permitted by law. Criminal usury is punishable by imprisonment for not more than 10 years or by a fine of not more than \$10,000, or by both. Mass. Gen. Laws Ann. ch. 271, § 49.
Michigan	15% of the first \$100; 14% of the second \$100; 13% of the third \$100. Plus database verification fee of \$45. Mich. Comp. Laws. § 487.2153.	None.	25% per year; plus a loan processing fee not to exceed 5% of the principal, up to \$250.00 which may be included in the principal. Mich. Comp. Laws. §§ 493.13; 445.1854.	25% per year; plus a loan processing fee not to exceed 5% of the principal, up to \$250.00 which may be included in the principal. Mich. Comp. Laws. §§ 493.13, 445.1854.	A rate exceeding 25% at simple interest per year or the equivalent rate for a longer or shorter period. Any person guilty of criminal usury may be imprisoned for a term not to exceed 5 years or fined not more than \$10,000, or both. Mich. Comp. Laws § 438.41.
Minnesota	7% of loan	3% per month of	33% per year on	33% per year on	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	proceeds plus an administrative fee of \$5. Minn. Stat. Ann. § 47.60. Checkholding permitted.	principal amount advanced plus storage/ services fee of \$20. Minn. Stat. Ann. § 325J.07. May hold title.	that part of the unpaid balance of the principal amount not exceeding \$975. Minn. Stat. Ann. § 47.59.	that part of the unpaid balance of the principal amount not exceeding \$975 and 19% per year on that part of the unpaid balance of the principal amount exceeding \$975. Minn. Stat. Ann. § 47.59.	
Mississippi	18% of the face amount of the check. Miss. Code Ann. § 75-67-519. Checkholding permitted.	25% of the principal amount per month. Miss. Code Ann. § 75-67-413. May hold title.	36% per year on the unpaid balance of the amount financed plus the amount of the discount rate in excess of 8%, if any. Closing fee not exceeding 4% of total of payments or \$25, whichever is greater. Miss. Code Ann. § 75-17-21.	36% per year on the unpaid balance of the amount financed plus the amount of the discount rate in excess of 8%, if any. Closing fee not exceeding 4% of total of payments or \$25, whichever is greater. Miss. Code Ann. § 75-17-21.	None.
Missouri	Any rate agreed to by parties. Interest and fees on any single loan cannot exceed 75%. Mo. Rev. Stat. §§ 408.500, 408.100. Checkholding permitted.	Rate agreed to by parties. Mo. Rev. Stat. §§ 367.515, 408.100. May hold title.	Rate agreed to by parties. Mo. Rev. Stat. § 408.100.	Rate agreed to by parties. Mo. Rev. Stat. § 408.100.	Every person or persons, company, corporation or firm, and every agent of any person, persons, company, corporation or firm, who shall take or receive, or agree to take or receive, directly or indirectly, by means of commissions of brokerage charges, or otherwise, for the forbearance or use of money or other commodities, any interest at a rate greater than 2% per month, except as permitted by the laws of this state, shall be deemed guilty of a misdemeanor. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law. Mo. Rev. Stat. § 408.095.
Montana	25% of the principal amount. Mont. Code Ann. § 31-1-722. Checkholding and authorization for electronic debiting	25% per month. Mont. Code Ann. § 31-1-817. Loan agreement	Rate set by contract. Mont. Code Ann. §§ 31-1-112, 32-5-301.	Rate set by contract. Mont. Code Ann. §§ 31-1-112, 32-5-301.	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	permitted. Mont. Code Ann. § 31-1- 703.	must provide that lender may hold title. Mont. Code Ann. § 31-1-816.			
Nebraska	\$15 per \$100 or pro rata for any part thereof on the face amount of a check. Neb. Rev. Stat. § 45-918. Checkholding permitted.	None.	24% per year on the unpaid principal balance. Neb. Rev. Stat. § 45-1024.	24% per year on the unpaid principal balance. Neb. Rev. Stat. § 45-1024.	None.
Nevada	No cap specified. Nev. Rev. Stat. § 604A.010 et seq. Checkholding and electronic transfer of funds permitted. Nev. Rev. Stat. §§ 604A.050, 604A.060.	No cap specified, but "title loan" is defined as one that "charges an annual percentage rate of more than 35 percent," Nev. Rev. Stat. § 604A.105, and one in which borrower gives possession of title to licensee.	Rate set by contract. Nev. Rev. Stat. § 675.363.	Rate set by contract. Nev. Rev. Stat. § 675.363.	None.
New Hampshire	No maximum interest rate specified for the term of the loan. N.H. Rev. Stat. Ann. § 399-A:12. Checkholding and debit authorization permitted. N.H. Rev. Stat. Ann. § 399-A:1.	No maximum interest rate specified for the term of the loan. N.H. Rev. Stat. Ann. § 399-A:12.	No maximum interest rate specified for the term of the loan. Rate is that "agreed to in writing by the borrower and lender." N.H. Rev. Stat. Ann. § 399-A:12.	No maximum interest rate specified for the term of the loan. Rate is that "agreed to in writing by the borrower and lender." N.H. Rev. Stat. Ann. § 399-A:12.	None.
New Jersey	None.	None.	Rate set by contract. N.J. Rev. Stat. § 17:11C-32.	Rate set by contract. N.J. Rev. Stat. § 17:11C-32.	30% N.J. Rev. Stat. § 2C:21-19.
New Mexico	"Administrative fee" of \$15.50 per \$100 of the principal amount of the loan. Plus "additional administrative fee" of \$.50 per new payday loan agreement as necessary to cover the cost to the licensee of verification. N.M. Stat Ann. § 58-15- 33. Checkholding and debit authorization permitted. N.M. Stat. Ann. § 58-15- 2.	None.	No interest rate cap. N.M. Stat. Ann. § 58-15-23.	No interest rate cap. N.M. Stat. Ann. § 58-15-23.	45% cap if the loan was extortionate; made with the understanding at the time that delay in making payment could result in the use of violence or other non-petty criminal acts to cause harm to the person, reputation, or property of any person. N.M. Stat. Ann. § 30-43-1 to 30-43-5.
New York	None.	None.	Rate set by contract. N.Y. Banking Law § 351.	Rate set by contract. N.Y. Banking Law § 351.	25% Criminal usury in the second degree is a class E felony. § N.Y. Penal Code.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap \$ 190.40
North Carolina	None.	None.	<p>36% per year up to \$600. Plus 5% loan processing fee. N.C. Gen. Stat. § 53-173.</p> <p>Alternate rate for loans not over \$7,500 (term between 6 months and 84 months, inclusive): 30% per year on that part of the unpaid principal balance not exceeding \$1,000 and 18% per year on the remainder of the unpaid principal balance. Plus loan processing fee not to exceed \$25. N.C. Gen. Stat. § 53-176.</p>	<p>36% per year on first \$600 and 15% on remainder of such unpaid principal balance. Plus 5% loan processing fee not to exceed \$25. N.C. Gen. Stat. § 53-173.</p> <p>Alternate rate for loans not over \$7,500 (term between 6 months and 84 months, inclusive): 30% per year on that part of the unpaid principal balance not exceeding \$1,000 and 18% per year on the remainder of the unpaid principal balance. Plus loan processing fee not to exceed \$25. N.C. Gen. Stat. § 53-176.</p>	None.
North Dakota	<p>20% of amount paid to customer plus database fee equal to cost to licensee (amount not specified). N.D. Cent. Code § 13-08-1.</p> <p>Checkholding and electronic debiting authorization permitted. . N.D. Cent. Code § 13-08-01.</p>	None.	<p>2.5% per month on unpaid balance of principal up to \$250; 2% per month on unpaid principal \$250-\$500. N.D. Cent. Code § 13-03.1-15.1.</p>	<p>2.5% per month on unpaid balance of principal up to \$250; 2% per month on unpaid principal \$250-\$500; 1.75% on unpaid balance of \$500-\$750; and 1.5% on unpaid principal of \$750-\$1000. N.D. Cent. Code § 13-03.1-15.1.</p>	<p>Except as otherwise provided by law, 5.5% per year higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in 6 months in effect for North Dakota for the 6 months immediately preceding the month in which the transaction occurs, but that in any event the maximum allowable interest rate ceiling may not be less than 7%, and in the computation of interest the same may not be compounded; provided, however, that a minimum interest charge of \$15 may be made. A contract may not provide for the payment of interest on interest overdue.</p> <p>Notwithstanding the interest rate</p>

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
					limit set under this section, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in state. N.D. Cent. Code §§ 47-14-09. Usury is Class B misdemeanor. N.D. Cent. Code §§ 47-14-11.
Ohio	28% per year annual percentage rate. Ohio Rev. Code Ann. § 1321.40. (effective 9/1/08).	None.	28% per year (can be precomputed) on that portion of the unpaid principal balance of the loan not exceeding \$1,000 plus a loan origination fee of the greater of \$15 or 1% of the principal. Ohio Rev. Stat. Ann. § 1321.13.	28% per year (can be precomputed) on that portion of the unpaid principal balance of the loan not exceeding \$1,000 plus a loan origination fee of the greater of \$30 or 1% of the principal. Ohio Rev. Stat. Ann. § 1321.13.	25% unless otherwise authorized by law. Ohio Rev. Stat. Ann. § 2905.21. Criminal usury is felony of fourth degree. Ohio Rev. Stat. Ann. § 2905.22.
Oklahoma	\$15 for every \$100 advanced up to the first \$300 of the amount advanced, plus actual database verification fee charged to lender (amount not specified). Okla. Stat. tit. 59, §§ 3108, 3109. Checkholding permitted.	None.	30% interest per year on unpaid balances of \$1,260 or less. Okla. Stat. 14A, § 3-508A.	30% interest per year on unpaid balances of \$1,260 or less. Okla. Stat. 14A, § 3-508A.	A supervised lender who willfully makes charges in excess of those permitted by the provisions of the article on loans applying to supervised loans is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding \$500 or to imprisonment not exceeding 1 year, or both. Okla. Stat. 14A, § 5-301. (but no percentage cap is specified) Extortionate credit separately defined as 45% and reputation for violence or threat of violence. Okla.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
Oregon	<p>36% APR, excluding a one-time origination fee of \$10 per \$100 of the loan amount, or \$30, whichever is less. Or. Rev. Stat. § 725.622.</p> <p>Checkholding permitted. Payday loan defined as one "usually evidenced by a check or electronic repayment agreement." Or. Rev. Stat. § 725.600.</p>	<p>36% APR excluding one-time origination fee of \$10 per \$100, or \$30, whichever is less. Or. Rev. Stat. § 725.615.</p> <p>May hold title. Or. Rev. Stat. § 725.600.</p> <p>BUT: Statute specifically states that lender may not require or accept from consumer a set of keys to the motor vehicle.</p>	<p>The greater of 36% APR or 30 percentage points above the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank of San Francisco. Or. Rev. Stat. § 725.340.</p>	<p>The greater of 36% APR or 30 percentage points above the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank of San Francisco. Or. Rev. Stat. § 725.340.</p>	<p>Stat. 14A, § 5-107.</p> <p>None.</p>
Pennsylvania	None.	None.	<p>\$9.50 per \$100 per year. Plus service charge of \$1.50 for each \$50, or fraction thereof. Pa. Stat. Ann. tit. 7, § 6213.</p>	<p>\$9.50 per \$100 per year. Plus service charge of \$1.50 for each \$50, or fraction thereof. Pa. Stat. Ann. tit. 7, § 6213.</p>	<p>Excessive interest need not be paid. Pa. Stat. Ann. tit. 41 § 501.</p> <p>Any person who knowingly and intentionally violates the provisions of this act shall be guilty of a misdemeanor of the third degree. Pa. Stat. Ann. tit. 41 § 505.</p> <p>ALSO:</p> <p>"Criminal usury" is charging, taking or receiving any money, things in action or other property as interest on the loan or forbearance of any money, things in action or other property, at a rate exceeding 36% per annum or the equivalent rate for a longer or shorter period, when not otherwise authorized by law. 18 Pa. Stat. Ann. § 4806.1 (h).</p> <p>Whoever engages in criminal usury, or conspires to do so, is guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$5,000</p>

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
					<p>or to undergo imprisonment not exceeding 10 years, or both. 18 Pa. Stat. Ann. § 4806.3.</p> <p>NOTE: It is a separate crime to commit extortionate extension of credit, which involves violence or threat of violence. 18 Pa. Stat. Ann. § 4806.2.</p>
Rhode Island	<p>15% of the amount of funds advanced. R.I. Gen. Laws § 19-14.4-4.</p> <p>Checkholding and authorization to debit customer's account permitted.</p>	None.	Loans exceeding \$300 but not exceeding \$800, 2.5% per month. R.I. Gen. Laws § 19-14.2-8.	Loans exceeding \$800 but not exceeding \$5,000, 2% per month. R.I. Gen. Laws § 19-14.2-8.	A crime to violate 21% per year or the alternate rate per year which is equal to nine percentage points (9%) plus an index which is the domestic prime rate as published in the Money Rates section of The Wall Street Journal or equivalent index. R.I. Gen. Laws §§ 6-26-2, 6-26-3.
South Carolina	<p>15% of face amount of the check. S.C. Code Ann. § 34-39-180.</p> <p>Checkholding permitted.</p>	S.C. Code Ann. § 37-3-413 regulates auto-title loans, but does not specify any rate.	\$25 per \$100. Plus "initial charge," which is the lesser of 7% of the cash advanced or \$56. Plus maintenance fee of \$2 per month. S.C. Code Ann. § 34-29-140.	\$18 per \$100. Plus "initial charge," which is the lesser of 7% of the cash advanced or \$56. Plus maintenance fee of \$2 per month. S.C. Code Ann. § 34-29-140.	None.
South Dakota	<p>Small loan law controls. No cap on fees. S.D. Codified Laws Ann. § 54-3-1.1.</p> <p>Electronic debiting allowed. § 54-4-36.</p>	None.	Rate set by contract. S.D. Codified Laws Ann. § 54-3-1.1.	Rate set by contract. S.D. Codified Laws Ann. § 54-3-1.1.	None.
Tennessee	<p>15% of face amount of check or \$30, whichever is less.</p> <p>Tenn. Code Ann. § 45-17-11.</p> <p>Checkholding permitted.</p>	2% per month interest. Plus "customary fee to defray the ordinary costs of operating a title pledge office" of 1/5 of the original principal amount. Tenn. Code Ann § 45-15-111.	24% on loans of \$100 or more. Tenn. Code Ann. § 45-5-301. Plus "service charge" of 4%, deducted in advance, or flat charge of \$10. Plus "installment maintenance fee" of \$3.50 per month. Maintenance fee applies only if loan term is over 90 days and monthly payment	24% on loans of \$100 or more. Tenn. Code Ann. § 45-5-301. Plus "service charge" of 4%, deducted in advance, or flat charge of \$10. Plus "installment maintenance fee" of \$3 per month. Maintenance fee applies only if loan term is over 90 days and monthly payment is at least \$15. Tenn. Code	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
			is at least \$15. Tenn. Code Ann. § 45-5-403. OR, as alternative, 7.5% "acquisition charge" plus monthly "installment account handling charge" of \$16. Tenn. Code Ann. § 45-5-403(b)(1).	Ann. § 45-5-403. OR, as alternative, 7.5% "acquisition charge" plus monthly "installment account handling charge" of \$20. Tenn. Code Ann. § 45-5-403(b)(1).	
Texas	<p>Acquisition charge of \$10 and an installment account handling charge that is not more than the ratio of \$4 a month for each \$100 of cash advance. Tex. Fin. Code § 342.252.</p> <p>Maximum Interest Charge for Loan With Single Repayment: A loan contract that is payable in a single installment may provide for an acquisition charge and an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under Section 342.252 considering the amount and term of the loan. If a loan under this section has an initial term of less than one month, the lender may earn a minimum of the acquisition charge and an interest charge that produces the same effective return as the installment account handling charge computed at a daily rate for the term the loan is outstanding. Tex. Fin. Code Ann. § 342.253.</p> <p>Checkholding and electronic debit authorization</p>	None.	\$8 per \$100 per year on loans of \$300-\$2,500; PLUS administrative fee of \$20. OR alternate simple interest rate of 30%. Tex. Fin. Code Ann. § 342.201.	\$8 per \$100 per year on loans of \$300-\$2,500; PLUS administrative fee of \$20. OR alternate simple interest rate of 30%. Tex. Fin. Code Ann. § 342.201.	None.

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
	permitted. Tex, Admin. Code tit. 7, § 83.604.				
Utah	No caps specified. Utah Code Ann. § 7-23-101 et seq. Checkholding and electronic debit authorization permitted. Utah Code Ann. § 7-23- 102.	No caps specified. Utah Code Ann. § 7- 24-101 et seq.	Rate set by contract. Utah Code Ann. § 70C-2-101.	Rate set by contract. Utah Code Ann. § 70C-2-101.	Criminal usury is making loans at rate higher than that authorized by law. Criminal usury is a felony of the third degree. Utah Code Ann. § 76-6- 520.
Vermont	None.	None.	24% per year on the first \$1,000 of the aggregate balance outstanding. Vt. Stat. Ann. tit. 9 § 41a & tit. 8 § 2230.	24% per year on the first \$1,000 of the aggregate balance outstanding. Vt. Stat. Ann. tit. 9 § 41a & tit. 8 § 2230.	Collecting interest at rate over that authorized by law is punishable by fine of not more than \$500 or imprisonment for not more than six months, or both. Vt. Stat. Ann. tit. 9 § 50.
Virginia	15% of the amount of the loan proceeds advanced. Va. Code Ann. § 6.1- 460. Checkholding permitted.	No cap if done through open- end loans.	Annual rate not to exceed 36% per year for loans of up to \$2,500 plus "processing fee" (amount not specified) which shall be considered interest for purpose of determining whether 36% rate is exceeded. Va. Code Ann. § 6.1-272.1.	Annual rate not to exceed 36% per year for loans of up to \$2,500 plus "processing fee" (amount not specified) which shall be considered interest for purpose of determining whether 36% rate is exceeded. Va. Code Ann. § 6.1- 272.1.	None.
Washington	Interest or fees not to exceed in 15% of \$500. Wash. Rev. Code § 31.45.073.	None.	25% per year plus a 4% loan origination fee, which fee may be included in the principal balance of the loan. Wash. Rev. Code § 31.04.105.	25% per year plus a 4% loan origination fee, which fee may be included in the principal balance of the loan. Wash. Rev. Code § 31.04.105.	None.
West Virginia	None.	None...	31% per year on the unpaid balance of the principal amount. W. Va Code § 46A-4-107.	31% per year on the unpaid balance of the principal amount. W. Va Code § 46A-4-107.	A regulated consumer lender who willfully makes charges in excess of those permitted by law is subject to fine of no more than \$5,000 or imprisonment for not more than one year, or both. W. Va Code § 46A-5- 103.
Wisconsin	None.	None.	A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not	A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any	Any person who knowingly possesses any writing representing or constituting a record of a charge

State	Payday: \$250 for 2 weeks	Auto-title: \$300 for 1 mo.	Small loan: \$500 for 6 mo.	Small loan: \$1,000 for 1 yr.	Criminal usury cap
			subject to any maximum interest rate limit. Wis. Stat. § 138.09.	maximum interest rate limit. Wis. Stat. § 138.09.	of, contract for, receipt of or demand for a rate of interest or consideration exceeding \$20 upon \$100 for one year computed upon the declining principal balance of the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of credit is, if the rate is prohibited by a law other than this section, guilty of a Class I felony. Wis. Stat. § 943.27.
Wyoming	The greater of \$30 or 20% per month on the principal balance of the check. Wyo. Stat. § 40-14-363. Checkholding permitted.	No auto-title loan law.	36% on loans of \$1,000 or less. Wyo. Stat. § 40- 14-348.	36% on loans of \$1,000 or less. Wyo. Stat. § 40-14- 348.	No criminal usury cap.